

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

C.A. No. 3:12-cv-01427-CMC

Matthew Alexander Nielson; J.Z., a Minor under age 18 by his Parent and Guardian Michele Stephens; D.M., a Minor under age 18 by her Parent and Guardian Victoria Reed; and the Freedom From Religion Foundation, Inc.,

Plaintiffs,

v.

School District Five of Lexington and Richland Counties,

Defendant.

**DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT**

Pursuant to Fed.R.Civ.P. 56(c), Defendant School District Five of Lexington and Richland Counties (hereinafter “the District”), by and through its undersigned counsel, hereby moves for summary judgment in its favor on the sole issue remaining for consideration by the Court as stipulated by the parties. That issue is whether the District’s Board of Trustees (hereinafter “the Board”) is a legislative or deliberative public body entitled to the exemption to government sponsored or endorsed prayer, as articulated in *Marsh v. Chambers*, 463 U.S. 783, 103 S.Ct. 3330 (1983), and as defined in S.C. Code §6-1-160.

The grounds for the Motion are that there are no genuine issues of material fact, and the District is entitled to judgment as a matter of law, for the reason that the Board is a legislative or deliberative public body and thus an invocation at the opening of Board meetings does not violate the Establishment Clause.

In support of the Motion, the District relies upon an accompanying Memorandum of Law, as well as other materials contained within the parties' Joint Exhibit, to be filed subsequent to these motions by Order of this Court.

Respectfully Submitted:

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November 22, 2013
Columbia, SC